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BOOK REVIEWS

THE SOCIAL AND ECONOMIC VIEWS OF MR. JUSTICE BRANDEIS.
New York: The Vanguard Press, 1930. 419 pp.

A companion piece, in point of view and make-up, to the *Dissenting Opinions of Mr. Justice Holmes*—but with the previous deficiencies in editing removed—is this collection of excerpts from the opinions and articles of Mr. Louis D. Brandeis. It is logical, of course, that these two books should be of the same format and similar in organization, for the names of Holmes and Brandeis have been linked in dissenting opinions since Brandeis took his place on the Supreme Bench in 1916.

Before his nomination as a justice in our highest court, Mr. Brandeis had made a name for himself by the manner in which he argued his cases. Here was no lawyer who resorted to antique pronouncements of law and antiquated theories. Here was a lawyer whose arguments showed the result of research for concrete facts relevant to the cases at hand. Here was a lawyer who taught the courts before whom he appeared considerable about the social and economic order of the day.

The characteristics and methods of the lawyer were not abandoned by the Justice. Unfortunately, the present volume—for lack of space—includes no footnote references to the wealth of source material which Mr. Justice Brandeis employs in the opinions presented. The facts, and reasoning based on them, are given for our perusal, however; it is left to the reader who is unsatisfied with the sample presented to turn to the official record for concrete evidence of exhaustive research.

Worthy of note is the fact that in a few instances which have come to our attention, state courts have rendered opinions coinciding with views expressed in dissenting opinions of Brandeis or Holmes. It would be enlightening to know just how many decisions and how much legislation have been effected which concurs with the liberal social and economic views of the Dissenters.

Mr. Justice Brandeis writes in correct and forceful English—in English especially suited to his factual decisions. Neither he nor Mr. Justice Holmes involves himself in the verbal labyrinth of trite legal phrases. Delightful to read are their opinions—one with the economy of language generally not found in legal writings, the other with brilliant literary flights. Whether one agrees with the opinions or not, he cannot but admire the reasoning and the facility of expression.

Charles A. Beard has written a Foreword to this book. His name alone bespeaks the interest and sparkle the reader will find in that introduction.

PERSONAL ACTIONS AT COMMON LAW. Ralph Sutton. London: Butterworth & Company, Ltd., 1929. 220 pp.

The personal common law actions of today are the same that have existed for centuries. The forms of pleading in such actions are necessarily equally as old. To a large extent the same forms are still used without much thought as to why we have not dropped out many phrases which have become meaningless or useless. To a large extent these same forms are used automatically with little understanding of the theory and logic which originally went into their make-up.

Mr. Sutton takes the reader through many an early case which was won or lost because the pleader properly or improperly constructed his declaration to conform to the theory of the action he chose. A lawyer today might overlook the fundamental difference as to the proof required in an action of trespass and in one in case. This lawyer will be refreshed by the simplicity of the problem after reading this exposition.

The historical sketches of the courts, writs, pleadings, and proceedings round out one's knowledge and understanding of present day systems and forms, and one may, perhaps, blush a little at the thought that our development and reform of the old procedure and form has gone no farther than it has.

Since the substance of this work was largely drawn from lectures delivered by the author under the auspices of the

Council of Legal Education, its style is conversational and narrative and is better adapted to home consumption than to use as a legal reference book. But neophyte and eminent jurist alike could well afford to read, enjoy, and profit by it.

HOW TO FIND THE LAW: A Legal Reference Handbook Including Chapters on Brief Making. Fred A. Eldean. St. Paul, Minnesota: West Publishing Company, 1931. 782 pp.

In developing this textbook and deciding which of the subject matter should receive the greatest emphasis, the author used a method common to personnel and educational research, but little known to the legal body. That was the "job-analysis method" whereby he determined the fundamental situations confronting the lawyer and then presented the tools and their uses in each of the situations. Again he followed methods of the research expert by testing his material in the classrooms of most of the law schools and in the offices of practicing attorneys. The result is a handbook on legal search which is of surpassing excellence. Its contents should be made familiar to all our students of the law, and its existence should be welcomed by those who have been teaching courses in legal bibliography and reference work without a practicable textbook.

The book begins with a general discussion of legal reference materials, including legislative enactments; the fundamental situations of a lawyer having a specific problem to solve are then considered in several chapters; the fundamental search situation in which the lawyer has found a pertinent precedent and seeks to supplement or evaluate it is considered in a separate chapter.

The author brings out the fact that there are three ways of commencing a search in any publication, "through the topic method, the fact-index avenue, and the words-and-phrases approach." On the basis of these three methods, he has an outline synthesizing the methodology in the various publications which is of considerable aid in organizing legal reference material.

This is the first book on legal reference to include a discussion of business materials. Under "Business Data for the Lawyer," Professors Nathan Isaacs and Georges F. Doriot, of Harvard University's Graduate School of Business Administration, discuss business and social data which are necessary in a profession which is sought today for business counsel as well as legal advice.

Other contributors to this volume are Professor Emeritus Eugene Wambaugh, of the Harvard Law School, who writes on the construction and interpretation of statutes and decisions; Professor Edson R. Sunderland, of the University of Michigan law faculty, and Professor Clifford W. Crandall, of the University of Florida College of Law who collaborate on the preparation and organization of the trial brief; and Mr. Henry S. Redfield, a former professor of law at Columbia University, who presents a chapter on "The Brief on Appeal."

MINIMIZING TAXES. Jay M. Lee. Kansas City, Missouri: Vernon Law Book Company, 1931. 1,293 pp.

"Minimizing Taxes" may be a trifle misleading to those whose eyes go no further than the cover. They may believe that here is just another study of taxes by an economist anxious to air his personal theories and a Ph. D. thesis; or, they may think that the author is presenting certain means of tax evasion. Either conclusion would be far from the facts.

Mr. Lee is a lawyer whose work as a city counselor in Kansas City and a commissioner of the Kansas City Court of Appeals for the western district of Missouri has shown him the need for such a book as this. In it, he presents the ordinary tax requirements of the taxpayer and interprets for him the reasons for such requirements. He also points the way to the minimizing of one's taxes by giving and discussing the various methods of tax limitation which have been considered lawful under given conditions and by briefly considering the tax advantages and disadvantages in the several states.

To be sure that his taxes do not discriminate against him and to keep them at the lowest justifiable amount, the taxpayer must do four things. "(1) He must keep reliably informed of the various methods of transacting business and their relative taxability. (2) He must act with sufficient promptness to avoid accusations that any change he makes is not 'actual,' and in order that such advantage as is obtained may last as long as possible before the next legislative change in subjects or persons taxed. (3) He must show his 'good faith' by acting openly and without pretense, and for the same reason the transaction must be 'actual' in every respect, as distinguished from a pretended or a mere bookkeeping transaction. (4) He must familiarize himself with the tax laws and their application, so as to avoid a needless assumption of tax liability, or an apparent liability which the spirit and the purpose of the law do not require."

This book either gives the needed information and advice or leads to an authoritative source. Specific examples are given in the synopses of Federal tax laws—in Part II—and state tax laws—in Part III. Business organization, trusts, form of investments, domicile, and many other matters which affect business and produce or limit the tax liability in business are discussed in Part I.

THE LAW OF POSTAL FRAUDS AND CRIMES: With Forms and Rules of the Court. Mack Taylor. Kansas City, Missouri: Vernon Law Book Company, 1931. 625 pp.

To aid those who desire information in the prosecution or defense of postal cases, the author has written this book. He has called upon his years of experience in prosecuting such cases while an Assistant United States Attorney.

In addition to a comprehensive discussion of all postal crimes, including use of the mails to defraud, there are given several hundred pages of forms relating to such crimes and frauds and an appendix containing the rules of the United States Supreme Court and Circuit Court of Appeals.

The method of presentation of the subject matter and the subject index make it easy to find material relative to any question or problem. Those who desire guidance in this branch of the Federal law will find Mr. Taylor's work helpful.

JURISDICTION AND PROCEDURE OF THE FEDERAL COURTS. (Fourth Edition.) John C. Rose. Albany, New York: Matthew Bender & Company, 1931. 1,138 pp.

This new edition of a standard work on Federal practice and procedure will be welcomed by practitioners in the United States courts. The chapters on appellate procedure and jurisdiction have been revised and amended to meet the changes occasioned by the acts of February, 1925, and April, 1926, abolishing writs of error and substituting appeals. Federal statutes have been carefully re-checked and re-cited and section numbers given according to the New United States Code. The Appendix contains the Judicial Code, the Equity Rules, the Supreme Court rules, and a large number of practical working forms which were omitted from the preceding editions.

EARLY CRIMINAL CODES OF ILLINOIS AND THEIR RELATION TO THE COMMON LAW OF ENGLAND: With a Brief on Forms of Illinois Indictments and Information in Criminal Cases and on Search and Seizure. Leslie A. Cranston. DuQuoin, Illinois: Cranston and Company, 1930. 501 pp.

Part I of this book contains the first criminal code of the state, approved March 23, 1819, together with a brief outline of the criminal codes adopted in 1827, 1833, and 1845. Only in this section is there a discussion of the common law in its relations to Illinois criminal law.

The second part of the book contains forms of Illinois indictments and informations based upon work done by the

author when he was State's Attorney of Fords County, Illinois. The collection is based on adjudicated cases in the Supreme and Appellate Courts with annotations of the decisions by the court showing whether the indictment or information was held good or bad.

The third and last section of the book is a brief on the subject of search and seizure. This matter, as the author points out, has attained great prominence because of the Prohibition Act.

CASES ON THE LAW OF INSURANCE. (Second Edition.) William Reynolds Vance. St. Paul, Minnesota: West Publishing Company, 1931. 1020 pp.

In this standard collection of cases on the subject of insurance, the important difference between the second edition and the first, the compiler explains, is in the shifting of emphasis from the historical background of the modern insurance law to its economic setting, and in the recognition that the American law of insurance other than Marine insurance has branched off widely from the parent English stem and become a distinct growth. The development of an American system of insurance law has been due partly to difference in business practice but chiefly to the many varied and important functions assumed by private insurance in the United States.

The scope of insurance law is well covered. Chapters, among others, which are included are entitled, "State Control of Insurance Business," "The Risk to be Shifted—Insurable Interest," "Making the Contract," "Ascertainment and Control of Risk." There are chapters on rights under, and construction of, policies of the various kinds of insurance. The book is liberally supplied with footnotes and is adapted to class room purposes.

The appendix contains forms of insurance policies, application, receipt, notice, agreement for settlement in trust and an American Experience Mortality Table run beside a British Office Life Table.

THE EMPLOYER AND THE WORKMEN'S COMPENSATION ACT OF ILLINOIS. Thomas C. Angerstein. Chicago: Hawkins and Loomis Company, 1930. 1,142 pp.

A work bearing the same title was issued in 1923 by George W. Angerstein. The present book retains the general plan of the first one, but the discussions have been greatly amplified, new chapters added, and the material brought up to date. Employers, employees, and all concerned with compensation matters will find here a practical subject index which will lead to sections and cases giving a clear explanation of the provisions of the Compensation Act which will answer many perplexing questions. Several new chapters appear in this edition, among which are one reviewing the awards made by the Circuit and Supreme Courts of Illinois and another discussing evidence and testimony in compensation cases. The determination of any compensation question arising under the Illinois Compensation Act depends entirely upon the construction of that act. For attorneys and insurance and claim men, this volume should be of the greatest value for ready reference in all matters pertaining to the law of workman's compensation.

THE CROSS-EXAMINATION OF WITNESSES. Asher L. Cornelius. Indianapolis, Indiana: The Bobbs-Merrill Company, 1929. 633 pp.

"To become proficient in the art of cross-examination requires a lifetime of study and practice for any lawyer. Its foundation principles are as deep and varied as human nature." Such is a statement of the author in the Preface to his book which has been written as an aid to lawyers in attaining greater proficiency in cross-examining witnesses.

In the first part of the book are considered the principles governing cross-examination as developed through time and custom and the proper methods applicable thereto. Examples of cross-examination taken from famous cases, beginning with the old English State trials and continuing through those of recent date, are given in the latter part of the book.

This book can be cordially recommended for collateral reading to students in connection with their work in evidence. However, it will be of greater value to the more seasoned lawyer with a practical background of service in court. And as the author says, the precepts presented in the book will be valuable to the latter "only so far as they are thoroughly assimilated and made a part of his working knowledge."

PROGRESS OF THE LAW IN THE U. S. SUPREME COURT 1929-1930.

Gregory Hankin and Charlotte A. Hankin. Washington, D. C.: Legal Research Service, 1930. 483 pp.

This is the second volume in the annual reviews of the work of the Supreme Court of the United States. Because its purpose is to give the reader a bird's-eye view of the Court as an institution of government, the authors have classified the material according to political, social and other economic problems, rather than giving it a strictly legal classification. The manner of presentation will appeal quite as much to the layman as to the lawyer.

The authors have given their opinions in this volume more freely than in the first; that fact makes this book even more interesting than its predecessor. As a means of keeping in touch with the evolution of jurisprudence in the Supreme Court it is questionable whether any book which has yet appeared can claim superiority over this production.

CASES AND MATERIALS IN THE LAW OF CORPORATION FINANCE.

Adolph A. Berle, Jr. St. Paul, Minnesota: West Publishing Company, 1930. 911 pp.

The author states at the outset that this book does not purport to give a complete picture of the law of corporate finance, but it does present a basis from which the student could acquire a fair working knowledge of the subject by combining the material given in the casebook with his own research. The first group deals with the objective study of a corporation and the various

securities through the medium of which its financial life is carried on. The second part is a study of the financial operation in action. It discusses the origination and promotion of the corporate enterprise; the selection of the financial media, stocks, or bonds; processes of flotation and sale; the part played by the investment banker; and the use of the corporate mechanism to acquire control over other corporations. It is almost entirely free from annotations and problems to be solved by the students and to that extent is not so good a case book as it might otherwise be.

THE LAW OF COMMERCIAL PAPER. Roy A. Redfield. New York: Brady Publishing Corporation, 1929. 511 pp.

The author says that this book is frankly a layman's law book, covering a field as readily explored by the layman as by the lawyer. He has kept in mind the needs of bankers and brokers who ordinarily do not have either the training or facilities for investigating in detail legal questions pertaining to negotiable instruments. The author shows how the subject was first developed by tradesmen rather than by lawyers. Negotiable instruments in a crude form were known in the Medieval Period, and it was the extension of banking in following years which further developed instruments of credit. By the end of the seventeenth century, bills and checks and promissory notes had found wide use in England under rules similar to those governing their use today.

The various states showed little uniformity in laws regarding negotiable instruments until a law was drafted by the Commissioner of Uniform State Laws in 1896 and presented to the state legislatures. All states, with the exception of Illinois, adopted the law substantially as submitted. Illinois, which did not incorporate the codification until 1902, modified its law to take advantage of criticisms and changes suggested by Dean Ames of the Harvard Law School.

As one would expect of a book written primarily for the layman, many facts and explanations are given, but few citations.

ARGUMENTS AND ADDRESSES OF JOSEPH HODGES CHOATE. Frederick C. Hicks, Editor. St. Paul, Minnesota: West Publishing Company, 1926. 1,189 pp.

The editor has done a stupendous piece of work in assembling, editing and indexing in this book. His method of classification of the arguments and addresses—addresses about Lawyers, Forensic Speeches and Arguments, Addresses on International Affairs, Political Speeches, Addresses on Occasions, and After Dinner Speeches—makes the book more valuable as a reference work on the period between 1870 and 1918 than it could have been without such grouping.

Whether this is as valuable for legal reference as for students of political science is questionable. It is, however, an addition to our ever increasing collections of literature written by outstanding members of the profession.

BOOKS RECEIVED*

CASES ON THE LAW OF PERSONAL PROPERTY. Harry A. Bigelow. St. Paul, Minnesota: West Publishing Company.

HANDBOOK OF THE LAW OF CONTRACTS. William L. Clark, Jr. St. Paul, Minnesota: West Publishing Company.

THE INTERSTATE COMMERCE COMMISSION: A Study of Administrative Law and Procedure. (Part I.) I. L. Sharfman. New York: The Commonwealth Fund.

*The above books are listed for the purpose of acknowledgment. Reviews of some of them may appear in subsequent issues.